

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

| | | |
|------------------------|---|-------------------------------------|
| MARLENE McINTIRE, | : | |
| | : | |
| Plaintiff, | : | Case No. 3:09CV0160 |
| | : | |
| vs. | : | |
| | : | District Judge Thomas M. Rose |
| MICHAEL J. ASTRUE, | : | Magistrate Judge Sharon L. Ovington |
| Commissioner of Social | : | |
| Security, | : | |
| | : | |
| Defendant. | : | |

DECISION AND ENTRY

The Court has conducted a *de novo* review of the Report and Recommendations of United States Magistrate Judge Sharon L. Ovington (Doc. #13), to whom this case originally was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendations.

It therefore is **ORDERED** THAT:

1. The Report and Recommendations filed on March 31, 2010 (Doc. #13) is ADOPTED in full;

2. The Commissioner's non-disability finding is VACATED;
3. No finding is made as to whether Plaintiff Marlene McIntire was under a "disability" within the meaning of the Social Security Act during the period of time at issue;
4. This case is REMANDED to the Commissioner and the Administrative Law Judge under Sentence Four of 42 U.S.C. § 405(g) for further consideration consistent with the Report and Recommendations adopted herein; and
4. The case is TERMINATED on the docket of this Court.

April 21, 2010

**s/THOMAS M. ROSE*

Thomas M. Rose
United States District Judge